IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3173 OF 2005

Usanappa Mallappa Imbrapure
since deceased by heirs .. Petitioners

versus

Jagdish Mhantappa Lingshetti.. Respondent

Mr.P.K.Dhakephalkar i/b Mr.N.P.Shimpi for Petitioners

Mr.S.C.Halli for Respondent

CORAM : D.G.KARNIK, J

DATED : 27th January, 2006

P.C.

1. Heard learned counsel for the petitioner.

2. By this petition, the petitioner challenges the judgment and decree passed by the learned District Judge dismissing the petitioner's appeal No.339 of 1999.

3. The petitioner is a tenant. A decree for possession has been passed against the petitioner by the trial Court on the ground of default as well as reasonable bonafide requirement of the

landlord. The lower appellate Court has confirmed the decree for possession on the ground of default. As regards bonafide requirement the appellate Court held that the requirement of the landlord was reasonable and bonafide but did not pass a decree on that ground holding that greater hardship would be caused to the petitioner by passing a decree.

4. The decree for possession on the ground of default in payment of rent is unimpeachable. Both the courts below have concurrently recorded a finding of fact on default. Apart from the fact that it is a finding of fact,learned counsel for the petitioner was unable to point out any error in the said finding of fact. In the circumstances, no interference is called for in the said decision.

5. Taking into consideration that the suit premises are business premises the petitioner is granted time to vacate the suit premises up to 31st May, 2006 subject to the condition that the petitioner files an undertaking in this Court on usual terms within a period of four weeks.

(D.G. KARNIK, J)